

COUNTY OF SAN DIEGO
DEFINED BENEFIT PENSION PLAN
Adopted Effective December 31, 2002

ARTICLE 1. INTRODUCTION

The County of San Diego (the “County”) establishes this County of San Diego Defined Benefit Pension Plan to be effective December 31, 2002 (“Plan”). The purpose of this Plan is to provide retirement benefits for Eligible Employees of the Participating Employers. The Plan and its related trust are established pursuant to California state laws including the California Government Code (“Government Code”) and are intended to meet the requirements of sections 401(a) and 501(a) of the Internal Revenue Code of 1986, as amended (“Code”).

The Plan is subject to amendment or termination by the County at any time, including (without limitation) retroactive amendments required to meet the requirements of applicable California laws and the Code and the income tax regulations and rules issued by the Secretary of the Treasury or his or her delegate.

ARTICLE 2. DEFINITIONS

The following words and phrases, when capitalized, shall have the following meanings, unless a different meaning is plainly required by the context.

- 2.1 “Accrued Pension” means, as of any date, the Pension payable to a Participant or his or her Beneficiary determined in accordance with Section 5.1 following the Participant’s Retirement or Separation from Service due to the Participant’s death.
- 2.2 “Act” means the federal Small Business Job Protection Act of 1996.
- 2.3 “Actuary” means the individual actuary or firm of actuaries selected by the Deferred Compensation Administrator to provide actuarial services in connection with the administration of the Plan.
- 2.4 “Actuarial Equivalent” means a payment or series of payments of equal present value, made in a different form or at a different time. Equivalence shall be determined by the Actuary on the basis of the actuarial factors set forth in the attached Exhibit A, which may be amended from time to time.
- 2.5 “Alternate Payee” means any Spouse, former Spouse, child or other dependent of a Participant who is recognized by a QDRO as having a right to receive all, or a portion of, the benefits payable under this Plan with respect to the Participant.
- 2.6 “Authorized Leave of Absence” means Military Service or any other absence from active employment by an Eligible Employee, whether with or without remuneration, that is authorized in accordance with a Participating Employer’s prevailing and nondiscriminatory practices; provided that the affected Eligible Employee conforms to all of the conditions of the leave of absence, including a return to employment within the time specified therein.
- 2.7 “Beneficiary” means an Alternate Payee or any person who is or may be entitled under Plan provisions to receive a payment after the death of a Participant.
- 2.8 “Board of Supervisors” means the Board of Supervisors of the County of San Diego as constituted from time to time.
- 2.9 “Code” means the Internal Revenue Code of 1986, as amended.
- 2.10 “County” means the County of San Diego of the State of California.
- 2.11 “Deferred Compensation Administrator” means the person or persons designated as the administrator of the Plan in Section 11.1 hereof.
- 2.12 “Effective Date” means the original effective date of this Plan which is December 31, 2002.

- 2.13 “Election Period” means the period which is not less than thirty (30) days and not more than ninety (90) days ending on the Participant’s Pension Starting Date in which a Participant will be given the opportunity to elect the form of payment of his or her Pension under the Plan as provided in Section 6.3, provided, however, that a Participant may elect to shorten the thirty (30) day Election Period before electing to commence the payment of his or her Accrued Pension.
- 2.14 “Eligible Employee” means, except as otherwise set forth below, an Employee of a Participating Employer on such Participating Employer’s payroll who is described in (a) below and is not excluded under (b) below. An individual’s status as an Eligible Employee shall be determined by the Deferred Compensation Administrator in his, her or its sole discretion, and its determination shall be conclusive and binding on all persons.
- (a) Regular Employee. Unless excluded under (b) below, an individual who is classified by a Participating Employer as a “regular employee” is an Eligible Employee.
 - (b) Excluded Employees. Notwithstanding the foregoing, an Employee shall not be an Eligible Employee for any period in which he or she is:
 - (1) a Leased Employee of a Participating Employer and is not on the payroll of a Participating Employer;
 - (2) an Employee included in a unit of employees covered by a collective-bargaining agreement which does not provide that the Employee is eligible to participate in the Plan;
 - (3) a nonresident alien with respect to the United States; or
 - (4) not paid from a payroll of a Participating Employer, but is deemed (currently or retroactively) for any reason to be an Employee.
- If, during any period, a Participating Employer has not treated an individual as an Eligible Employee and, for that reason, has not withheld employment taxes with respect to that individual, then that individual shall not be an Eligible Employee for that period, even in the event that the individual is determined, retroactively, to have been an employee during all or any portion of that period. An individual’s status as an “Eligible Employee” shall be determined by the Deferred Compensation Administrator and such determination shall be conclusive and binding on all persons.
- 2.15 “Employee” means any individual who (a) is a common-law employee of a Participating Employer or (b) is a Leased Employee with respect to a Participating Employer.
- 2.16 “Fiduciary” means a person having specific fiduciary responsibilities for Plan or Trust Fund administration, as further described in Article 11.
- 2.17 “Investment Manager” means any person appointed by the Deferred Compensation Administrator to serve in such role as described in Article 12 (other than the County or

the entity appointed the Trustee appointed by the Deferred Compensation Administrator pursuant to Article 11):

- (a) Who has the power to manage, acquire or dispose of any assets of the Plan;
 - (b) Who is (1) registered as an investment adviser under the Investment Advisers Act of 1940, (2) a bank, as defined in such Act, or (3) an insurance company qualified to perform services described in (a) above under the laws of more than one state; and
 - (c) Who has acknowledged in writing that it is a Fiduciary with respect to the Plan.
- 2.18 “Leased Employee” means an individual described in Code section 414(n) which means an individual other than a common law employee who (a) pursuant to an agreement between a Participating Employer and a leasing organization, (b) performs services for that Participating Employer on a substantially full-time basis for a period of at least one year, and (c) the individual’s services are performed under the primary direction or control of that Participating Employer. Contributions or benefits provided to a Leased Employee by the leasing organization that are attributable to services performed for a Participating Employer shall be treated as provided by the applicable Participating Employer. A Leased Employee shall not be considered an Employee if (a) the individual is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least 10 percent of compensation (defined in Code section 415(c)(3)), but including amounts contributed pursuant to a salary reduction agreement that are excludable from gross income under Code section 125 or 402(a)(8), (2) immediate participation, and (3) full and immediate vesting, and (b) Leased Employees do not constitute more than 20 percent of the Participating Employer’s non-highly compensated workforce as described in Code section 414(n).
- 2.19 “Military Service” means an Eligible Employee’s absence from employment to serve in the armed forces of the United States under circumstances where federal law protects the Eligible Employee’s reemployment rights and the Eligible Employee returns to work with an Affiliated Group member within the period during which his or her reemployment rights are protected by law.
- 2.20 “Normal Form” means the Pension form described in Section 6.2.
- 2.21 “Participant” means a person participating in this Plan as provided in Article 3.
- 2.22 “Participating Employer” means the County or any other local governmental agency participating in the Plan for the benefit of its Eligible Employees with the consent of the County’s Board of Supervisors or the Deferred Compensation Administrator, and whose legislative or other governing body or duly authorized representative has approved such entity’s participation in the Plan. The participation by a Participating Employer shall be on such terms and conditions set forth in a written agreement as the Deferred Compensation Administrator may require.

- 2.23 “Pension” means a lump-sum amount or series of monthly amounts determined under Section 5.1 and payable to an individual who is entitled to receive a Pension under the Plan as further provided in Article 4 through Article 8.
- 2.24 “Pension Starting Date” means the date on which an Accrued Pension is to be paid to a Participant as provided in Article 5 or his or her Beneficiary as provided in Article 8.
- 2.25 “Plan” means this County of San Diego Defined Benefit Pension Plan, as amended from time to time.
- 2.26 “Plan Retirement Age” means age 55, at which age a Participant who separates from service with a Participating Employer would be exempt from the application of the early distribution tax under section 72(t)(1) of the Code pursuant to the provisions of section 72(t)(2)(A)(v) of the Code, or such other age subsequently established under section 72(t)(2)(A)(v) of the Code or a successor provision thereto in the Code at which age a Participant who separates from service with a Participating Employer would be exempt from the application of the early distribution tax under section 72(t)(1) of the Code.
- 2.27 “Plan Year” means the twelve month period commencing any first day of January, except that the first Plan Year of the Plan shall be a short plan year commencing on the Effective Date and ending on the December 31 coinciding with or immediately following thereafter in the same calendar year.
- 2.28 “QDRO” means a qualified domestic relations order as defined in Code section 414(p).
- 2.29 “Retired,” “Retires” or “Retirement” means the Separation from Service by a Participant for reasons other than the Participant’s death on or after he or she attains the Plan Retirement Age.
- 2.30 “Required Beginning Date” means the latest date benefit payments shall commence to a Participant. Such date shall mean with regard to a Participant who attains age 70½ in 1998 or thereafter, the April 1 that next follows the later of (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which the Participant has a Separation from Service with the Participating Employer.
- 2.31 “Separation from Service” means the date on which an Eligible Employee’s employment with a Participating Employer terminates because he or she quits, retires, is discharged, or dies, provided that if the Eligible Employee is absent for an Authorized Leave of Absence, the Eligible Employee shall not be considered to have had a Separation from Service during such leave.
- 2.32 “Sick Leave Pay” means sick leave pay to which a Participant would be entitled to be paid by a Participating Employer on or after his or her Separation from Service.
- 2.33 “Spouse” means the individual married to the Participant in accordance with the laws of the state or foreign jurisdiction in which the Participant is domiciled.

- 2.34 “Trust Agreement” means the Trust Agreement between the County and the Trustee, as amended from time to time, under which the Trust Fund is held in trust for the benefit of Participants and Beneficiaries.
- 2.35 “Trust Fund” means the assets of the Plan held in trust by a Trustee pursuant to a Trust Agreement.
- 2.36 “Trustee” means the Fiduciary or Fiduciaries appointed from time to time by the Board of Supervisors or the Deferred Compensation Administrator to hold the assets of the Plan in trust pursuant to a Trust Agreement.
- 2.37 “Vacation Leave Pay” means vacation leave pay to which a Participant would be entitled to be paid by a Participating Employer on or after his or her Separation from Service.
- 2.38 “Year of Service” means a Plan Year in which an Employee has performed at least one hour of service with a Participating Employer.

ARTICLE 3. PARTICIPATION

- 3.1 Participation. An Eligible Employee shall automatically become a Participant of the Plan on the date he or she becomes an Eligible Employee.

Notwithstanding the foregoing, an Employee or former Employee who is not an Eligible Employee on or after the Effective Date shall have no rights or benefits hereunder.

- 3.2 Termination of Participation. A Participant's participation in the Plan shall terminate as of the date he or she ceases to be an Eligible Employee, unless he or she then is entitled to a Pension benefit under the Plan, in which event his or her participation shall continue, for the limited purpose of receiving such benefit, until the earlier of the following dates:

- (a) The date when all of the Participant's Accrued Pension has been distributed; or
- (b) The date of the Participant's death.

- 3.3 Reinstatement of Participation. A former Eligible Employee who once again becomes an Eligible Employee shall automatically become a Participant of the Plan as provided in Section 3.1.

ARTICLE 4. ELIGIBILITY FOR PENSION BENEFIT

- 4.1 Pension Benefit. A Participant who Retires from a Participating Employer, or has a Separation from Service from a Participating Employer due to the Participant's death, with accrued but unpaid Sick Leave Pay or Vacation Leave Pay at the time of his or her Retirement or death, shall be eligible to receive an Accrued Pension payable to the Participant or to his or her Beneficiary, in such amount and at such time as determined in Article 5 and in such form as determined in Article 6.
- 4.2 Vesting. Subject to the terms and conditions of this Plan, a Participant shall be fully vested in his or her Accrued Pension.

ARTICLE 5. AMOUNT AND TIME OF PAYMENT OF PENSION BENEFIT

A Participant who is eligible to receive an Accrued Pension under Article 4 shall receive an immediate accrual of his or her Accrued Pension which shall be payable to the Participant (or to his or her Beneficiary as provided in Article 8) on his or her Pension Starting Date (as described below) as follows.

- 5.1 Amount of Accrued Pension. The Accrued Pension of a Participant shall be equal to the dollar amount of: (i) the sum of his or her accrued but unpaid Sick Leave Pay and accrued but unpaid Vacation Leave Pay determined immediately prior to the time of his or her Retirement or Separation from Service due to his or her death, less (ii) two percent (2.0%) of such sum amount.
- 5.2 No Participant Discretion Over Choice of Benefits. The provisions of this Plan are mandatory and notwithstanding any provision herein to the contrary, a Participant who is entitled to an Accrued Pension (or his or her Beneficiary in the event of his or her death) as provided in this Article 5 or in Article 8 shall not be paid his or her accrued but unpaid Sick Leave Pay and accrued but unpaid Vacation Leave Pay on or after his or her Retirement or death. In the event such payments are required to be made by applicable laws, the Participant's Accrued Pension herein shall be reduced by the amount of such Sick Leave Pay and Vacation Leave Pay paid to the Participant. A Participant shall not have any discretion to elect a choice of benefits except as provided in Section 6.3.
- 5.3 Pension Starting Date. Notwithstanding any provision in this Plan to the contrary, the Pension Starting Date for a Participant shall be a date not later than forty-five (45) days following the Participant's Retirement.
- 5.4 Re-Employment Prior To Commencement of Pension Payments. A Participant who Retires and is subsequently re-employed by a Participating Employer shall continue to be paid his or her Accrued Pension as previously elected by the Participant (or as payable under Section 6.3 or 6.7 as if he or she had not been re-employed by the Participating Employer.

ARTICLE 6. FORM OF PENSION BENEFIT

6.1 Available Forms of Pension. Subject to Sections 6.2 and 6.7, a Participant's Accrued Pension shall be payable in only one of the following forms as elected by the Participant:

- (a) Lump Sum Pension. A "Lump Sum Pension" provides for a single lump-sum payment equal to the applicable Accrued Pension determined in Article 5, provided, that a Participant may elect to receive payment of a portion of his or her applicable Accrued Pension determined in Article 5 in a lump-sum payment and to receive payment of the balance of his or her applicable Accrued Pension in a separate lump-sum payment to commence at a later time subject to the other provisions of the Plan.
- (b) Annuity Pension. An "Annuity Pension" provides equal monthly payments equal in total to the Lump Sum Pension (without adjustment for interest) for a period of sixty (60) months, and, in the event of the Participant's death prior to the complete distribution of such benefit the remaining monthly payments shall be payable to his or her Beneficiary (if living) for the remainder of the payment period. A Participant's monthly Annuity Pension payment shall be equal to one-sixtieth ($1/60^{\text{th}}$) of such Participant's Lump Sum Pension which shall not be increased or decreased during such payment period.

If a designated Beneficiary dies before receiving the total Accrued Pension payments to which he or she had been entitled under this Section 6.1, the remaining Accrued Pension payment shall be made to the next designated Beneficiary of the Participant or, if there is none, to such person or persons in the first surviving class in the order of the Beneficiaries listed in Section 8.6.

6.2 Normal Form of Pension. Except in the case of a Participant who is subject to Section 6.7, the following rules shall apply. If a Participant has not elected an optional form of payment pursuant to Section 6.3, his or her Normal Form of Pension shall be payable in the Lump Sum Pension form.

6.3 Electing an Optional Form of Pension. If a Participant does not want his or her Accrued Pension paid in the Normal Form, the Participant may elect any other form of Pension under Section 6.1 by filing the prescribed form with the Deferred Compensation Administrator at any time during the Election Period and by furnishing his or her intended Retirement date, in a form acceptable to the Deferred Compensation Administrator. A prior election may be revoked at any time up to the Pension Starting Date.

6.4 Information for Participants. Not less than thirty (30) and not more than ninety (90) days before a Participant's Pension Starting Date, the Deferred Compensation Administrator shall provide the Participant with a written explanation using non-technical language of:

- (a) The terms and conditions of the forms of Pensions under Section 6.1;

- (b) The Participant's right to make or revoke an election under Section 6.3 to receive an optional form of Pension (and the effect thereof);
 - (c) The effect of a failure to make an election of a Pension form;
 - (d) The rights of the Participant's Spouse under Section 8.6; and
 - (e) The relative values of the various optional forms of Pension under the Plan.
- 6.5 Death of Spouse or Beneficiary or Dissolution of Marriage. If a Spouse's or Beneficiary's death or a divorce of the Participant occurs on or after the Participant's Pension Starting Date, then any Pension benefits which are still payable under the Plan shall be paid as if such Participant Retired unmarried unless such Pension benefits are subject to a valid QDRO filed with the Deferred Compensation Administrator or the Participant has filed a designation of a different Beneficiary with the Deferred Compensation Administrator.
- 6.6 Required Distributions. Notwithstanding any provisions herein to the contrary, payment of a Participant's Accrued Pension shall be made or shall commence on the Participant's Required Beginning Date in accordance with Code section 401(a)(9) and the income tax regulations promulgated thereunder, which are incorporated herein by this reference. No individual's life expectancy shall be recalculated with respect to the payment of any Pension.
- 6.7 Involuntary Small Lump Sum Cash-Outs. If the Lump Sum Pension payable to any person under the Plan is not more than \$5,000, then the Actuarial Equivalent of such Accrued Pension shall be paid in a single lump sum in lieu of monthly payments without the Participant's consent as of the Participant's or Beneficiary's Pension Starting Date.
- 6.8 Direct Rollovers to Other Plans. Notwithstanding any contrary Plan provision, if the distributee of any eligible rollover distribution (within the meaning of Code section 401(a)(31)(C)) under Section 6.1(a) or 6.7 elects to have any portion of such distribution paid directly to an IRA or other eligible retirement plan (within the meaning of Code section 401(a)(31)(D)), and specifies such IRA or plan in such manner and within such advance notice period as the Deferred Compensation Administrator may specify, such distribution or portion thereof shall be made in the form of a direct rollover to such plan, in accordance with and subject to the conditions and limitations of Code section 401(a)(31) and related provisions of the Code.

ARTICLE 7. BENEFIT LIMITATIONS

- 7.1 General Rule. Except as otherwise provided herein or unless the alternative limitation of Section 7.4 applies, a Participant's Annual Benefit (as defined in Section 7.9) taking into account all defined benefit plans maintained by the Participating Employer of the Participant at any time during a Plan Year shall not exceed the applicable dollar limit for defined benefit plans in section 415(b) of the Code which for the year 2002 is \$160,000 or such larger amount reflecting the annual cost-of-living adjustment under Code section 415(d) as adopted by the Commissioner of Internal Revenue as of January 1 of that Plan Year.
- 7.2 Reduction of Annual Benefits. If a Participant's Annual Benefit, would exceed the limit of Section 7.1, then his or her Accrued Pension shall be reduced (before any reductions are made under any other defined benefit plans maintained by the Participating Employer of the Participant) as necessary so as not to exceed such limit. Such reduction amount shall thereafter not be paid as a benefit under the Plan.
- 7.3 Increase in Annual Benefit. The Annual Benefit of a Participant subject to the limitation described in Section 7.1 shall be increased (but not in excess of his or her Annual Benefit without regard to this Article 7) only to the extent permitted by the cost-of-living adjustments to such limitation adopted by the Commissioner of Internal Revenue that take effect prior to the Participant's Pension Starting Date.
- 7.4 Alternative Limitation for Pension up to \$10,000. A Participant's Pension shall not be subject to the limitations of Sections 7.1 and 7.2 if each of the following requirements is met:
- (a) The sum of the Participant's Annual Benefit under this Plan and his or her aggregate annual retirement benefits under all other qualified defined benefit plans maintained by an Affiliated Group member does not exceed \$10,000; and
 - (b) The Participant has never participated in a qualified defined-contribution plan maintained by an Affiliated Group member.
- 7.5 Reduced Limitations for Participants Whose Participation or Period of Service Is Less Than 10 Years.
- (a) Participation. In the case of a Participant who has completed less than 10 years of participation in this Plan, the amount described in Section 7.1 shall be multiplied by a fraction determined as follows:
 - (1) The numerator of such fraction shall be the greater of one or the number of Years of Service (or part thereof) of the Participant's participation in the Plan; and
 - (2) The denominator of such fraction shall be 10.

(b) Service with Employer. In the case of a Participant who has completed less than 10 years of employment (determined as of the date when his or her Accrued Pension payments are to commence) and whose Accrued Pension is payable for a reason other than the disability or sickness of the Participant, the \$10,000 amount described in Section 7.4 shall be multiplied by a fraction determined as follows:

(1) The numerator of such fraction shall be the greater of one or the number of the Participant's Years of Service; and

(2) The denominator of such fraction shall be 10.

7.6 Adjusted Dollar Limitation for Pensions Commencing Before Age 62. If a Participant's Accrued Pension commences before the Participant attains age 62, then the determination as to whether the dollar limitation in Section 7.1 has been satisfied shall be made, in accordance with income tax regulations promulgated by the Secretary of the Treasury, by reducing such limitation so that such limitation (as so reduced) equals an annual benefit (beginning when such Pension begins) which is equivalent to a \$160,000 Annual Benefit beginning at age 62. In the case of an Annual Benefit that commences prior to age 62, the Participant's maximum Annual Benefit beginning at age 62 is calculated in accordance with the preceding sentence and then actuarially reduced for each month by which the Participant's Annual Benefit commences prior to age 62. Actuarial equivalency for this purpose shall be based on the actuarial assumptions specified in the definition of "Actuarial Equivalent," except that the interest assumption shall be equal to at least five percent.

(a) Notwithstanding the foregoing, the reduction described above in this Section 7.6 shall not apply to a "qualified participant" as defined in Code section 415(b)(2)(H) which means a Participant (i) in a defined benefit plan which is maintained by a State or political subdivision thereof, (ii) with respect to whom the period of service taken into account in determining the amount of the benefits under such defined benefit plan includes at least 15 years of service of the participant (I) as a full-time employee of any police department or fire department which is organized and operated by the State or political subdivision maintaining such defined benefit plan to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision, or (II) as a member of the Armed Forces of the United States.

(b) Also notwithstanding the foregoing, the reduction described above in this Section 7.6 shall not apply to an (i) Accrued Pension received by a Participant as the result of the Participant becoming disabled by reason of personal injuries or sickness, or (ii) Accrued Pension received by a Beneficiary under the Plan as a result of the death of the Participant.

7.7 Adjusted Dollar Limitation for Pensions Commencing After Age 65. If a Participant's Accrued Pension commences after the Participant attains age 65, then the determination as to whether the dollar limitation in Section 7.1 has been satisfied shall be made,

accordance with regulations prescribed by the Secretary of the Treasury, by increasing such limitation so that such limitation (as so reduced) equals an annual benefit (beginning when such Pension begins) which is equivalent to a \$160,000 annual benefits beginning at age 65. Actuarial equivalency for this purpose shall be based on the actuarial assumptions specified in the definition of "Actuarial Equivalent," except that the interest assumption shall not exceed five percent.

- 7.8 Affiliated Group. For purposes of this Article 7, the term "Affiliated Group" means a group of entities related to a Participating Employer under Code section 414(b), 414(c), 414(m), or 414(o), except that the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in Code section 1563(a)(1) as applied to Code sections 414(b) and 414(c).
- 7.9 Annual Benefit. For purposes of this Article 7, a Participant's "Annual Benefit" shall be equal to the sum of the following:
- (a) The annual Pension to which the Participant is entitled under this Plan; and
 - (b) The aggregate annual retirement benefits (if any) to which the Participant is entitled under all other qualified defined benefit plans maintained by any Affiliated Group member.

If a Participant's Pension is payable in a form other than a single-life annuity, then such Pension shall be converted into a single-life annuity which is its Actuarial Equivalent (as determined in accordance with the requirements of Code section 415 and income tax regulations promulgated thereunder) of the form of payment, except that the interest assumption shall equal at least five percent, to convert such Pension into the Participant's Annual Benefit for purposes of Section 7.1.

ARTICLE 8. PENSION BENEFITS UPON PARTICIPANT'S DEATH

- 8.1 Applicability. This Article 8 shall apply only if a Participant who would be entitled to receive an Accrued Pension dies before the complete distribution of his or her Accrued Pension.
- 8.2 Death While Employed. If a Participant dies while he or she is employed by a Participating Employer, his or her Beneficiary shall be entitled to receive the Accrued Pension which the Participant would have been entitled to receive on the date of his or her death.
- 8.3 Death Before Complete Distribution. If a Participant dies after his or her Retirement for reasons other than death but before his or her Accrued Pension has commenced or been fully distributed, his or her Beneficiary shall be entitled to receive the undistributed remainder of his or her Accrued Pension. If the Accrued Pension has commenced in the Annuity Pension form of payment, the remainder of his or her Accrued Pension shall be distributed at least as rapidly as under the method in effect before the Participant's death.
- 8.4 Death After Complete Distribution. If a Participant dies after he or she has received a distribution of his or her entire Accrued Pension, then no further Pension shall be payable to any individual hereunder.
- 8.5 Form and Time of Commencement of Pension to Beneficiary. The Accrued Pension payable to a Beneficiary in this Article 8 shall be payable in a single lump sum in cash not later than forty-five (45) days after the Participant's death, except, however, if installment payments have begun they may continue to be paid in accordance with the method of payment in effect.
- 8.6 Beneficiary Designations and Spousal Consent. Upon commencement of participation, each Participant shall, by filing the prescribed form with the Deferred Compensation Administrator, name a person or persons as the Beneficiary or Beneficiaries who will receive any Accrued Pension payable under the Plan in the event of the Participant's death. If the Participant has not named a Beneficiary or if none of the named Beneficiaries is living when any payment is to be made, then (i) the Spouse of the deceased Participant shall be the Beneficiary, or (ii) if the Participant has no Spouse living at the time of such payment, the then living children of the Participant shall be the Beneficiaries in equal shares or (iii) if the Participant has neither a Spouse or a child living at the time of such payment, the estate of the Participant shall be the Beneficiary. The Participant may change the designation of a Beneficiary from time to time in accordance with procedures established by the Deferred Compensation Administrator. Any designation of a Beneficiary (or an amendment or revocation thereof) shall be effective only if it is made in writing on the prescribed form and is received by the Deferred Compensation Administrator prior to the Participant's death. Any other provision of this Section 8.6 notwithstanding, in the case of a married Participant, any designation of a person other than his or her Spouse as a primary Beneficiary shall be valid only if the Spouse consented to such designation. The Spouse's consent shall be in writing, shall acknowledge the effect of the Participant's election, shall specify the non-

Spouse Beneficiary being designated (including any class of Beneficiaries or any contingent Beneficiaries) and shall be witnessed by a notary public. A consent, once given by a Spouse, shall not be revocable by such Spouse. Such consent shall not apply to any change in Beneficiary designation, unless the Spouse's consent expressly permits changes in the Beneficiary designation without further consent. Spousal consent shall not be required if (i) the Participant establishes to the Deferred Compensation Administrator's satisfaction that there is no Spouse or the Spouse cannot be located or (ii) the Participant is legally separated or has been abandoned (within the meaning of applicable law) and has an appropriate court order, unless a domestic relations order provides otherwise. If the Spouse is legally incompetent to give consent, the Spouse's legal guardian (including the Participant) may give consent.

ARTICLE 9. OTHER PENSION PROVISIONS

- 9.1 No Alienation of Benefits. No benefit payable under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to such benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to a benefit payable hereunder shall be void. The Trust Fund shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to a benefit hereunder.

Notwithstanding the foregoing, neither of the following shall be treated as prohibited by this Section 9.1, the creation, assignment or recognition of a right to any benefit payable with respect to a Participant pursuant to a QDRO under Section 9.2.

- 9.2 Deferral of Payment of Benefits During A Period of Consideration of Domestic Relations Order; Distribution To An alternate Payee Under A QDRO. Notwithstanding any other provision of the Plan, to the extent permitted by section 414(p) of the Code and other applicable law, the Deferred Compensation Administrator may defer payment of the Participant's benefits beyond the date otherwise provided in the Plan in the event that the Deferred Compensation Administrator, in his, her or its discretion, determines that such deferral is necessary for it to consider whether a domestic relations order is a QDRO under Code section 414(p) or when the Deferred Compensation Administrator becomes informed that an Alternate Payee is seeking such an order with respect to the Participant's benefits.

The creation, assignment or recognition of a right to all or any portion of a Participant's Accrued Pension under the Plan pursuant to a state domestic relations order shall not constitute a violation of Section 9.1 of the Plan, provided such order is determined to be a QDRO (within the meaning of Code section 414(p)) under procedures adopted by the Deferred Compensation Administrator.

- (a) Distributions Under QDROs. Subject to Section 6.6 (Required Distributions), any distribution to an Alternate Payee pursuant to a QDRO described above shall be made as follows:
- (1) Alternate Payee may commence distribution of such portion of Participant's Accrued Pension as Alternate Payee is awarded by a QDRO on or after the Retirement of Participant but prior to the complete distribution of Participant's Accrued Pension.
 - (2) Alternate Payee may be paid in any form of benefit elected by the Alternate Payee and permitted by the Plan.
- (b) Participant's Benefit. To the extent that a QDRO creates, assigns, or recognizes an Alternate Payee's right to any portion of the Accrued Pension otherwise payable to or with respect to a Participant, such portion shall not thereafter be

taken into account in determining the Accrued Pension payable to or with respect to that Participant under the Plan.

9.3 Facility of Payment. Whenever, in the Deferred Compensation Administrator's opinion, a person entitled to receive any benefit under the Plan is under a legal disability or is physically or mentally incapacitated in any way so as to be unable to manage his or her financial affairs, the Deferred Compensation Administrator may direct the Trustee to make distribution to such person or to his or her legal representative or to a relative or friend of such person for his or her benefit or may direct the Trustee to apply the payment for the benefit of such person and in such manner as the County considers advisable.

9.4 Payments Discharge Plan; Adverse Claims; and Interpleader. Any Plan payment or distribution made to any person in full compliance with the terms of the Plan shall fully discharge the County, all Participating Employers, the Plan, the Deferred Compensation Administrator, the Board of Supervisors of the County, the Trustee or any insurance company making such payment from all adverse claims thereto with respect to which prior written notice has not been given to the entity making or directing the payment or distribution.

If the Deferred Compensation Administrator has received actual written notice of any adverse claim to any Plan payment or distribution not yet made, the Deferred Compensation Administrator may suspend distribution and take such other action as it deems necessary or advisable to protect the Plan and its Participants and beneficiaries, until the respective rights of all interested persons have been determined to the satisfaction of the Deferred Compensation Administrator. The Deferred Compensation Administrator, or the Trustee at the direction of the Deferred Compensation Administrator, may elect to file an interpleader and deposit the Pension payments under the Plan with a court of competent jurisdiction to determine to whom such amounts should be paid.

9.5 Overpayments and Underpayments. If any person has received a payment from the Plan in excess of the amount (if any) to which he or she was entitled under the Plan's provisions, then the excess may be withheld from one or more subsequent payments to such person (or to any person who derives his or her rights under the Plan from the person who received the overpayment). In addition, the County may employ any other lawful means to recover overpayments on behalf of the Plan. If any person has received less than the amount to which such person is entitled under the Plan, then the entire amount of the deficiency shall be paid to such person (or to his or her representative) as soon as reasonably practicable after the discovery of the underpayment.

9.6 Evidence of Survival. If a Pension payment is contingent on the survival of any person, evidence of such person's survival must be furnished to the County either by (a) personal endorsement of the check drawn for such payment or (b) personal presentation.

9.7 Location of Participant or Beneficiary Unknown. In the event that all, or any portion, of a Pension payable to a Participant or a Beneficiary shall, at the expiration of five (5) years after it becomes payable, remain unpaid solely by reason of the inability of the

Deferred Compensation Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of that Participant or Beneficiary, the Pension so distributable shall be forfeited. In the event a Participant or Beneficiary is located subsequent to the forfeiture, the Pension shall be restored.

- 9.8 Military Service. Notwithstanding any provision in this Plan to the contrary, benefits and service credits with respect to Military Service will be provided in accordance with Code section 414(u).

ARTICLE 10. CLAIMS AND REVIEW PROCEDURES

- 10.1 Application for Benefits. All claims for benefits and all inquiries concerning the Plan, or concerning present or future rights to benefits under the Plan, shall be submitted in writing to the Deferred Compensation Administrator. Applications for benefits must be made on the forms prescribed by the Deferred Compensation Administrator and signed by the Participant or the Participant's Beneficiary, as applicable. Any application for benefits under this Plan shall be submitted to the Deferred Compensation Administrator addressed as follows:

County Treasurer
Deferred Compensation Administrator
County of San Diego Defined Benefit Pension Plan
1600 Pacific Highway, Room 152
San Diego, California 92101

- 10.2 Hearing. The Deferred Compensation Administrator may rule on the benefits application solely on the basis of the application of the Participant or Beneficiary. In the event the Deferred Compensation Administrator determines it is necessary to hold a hearing regarding any benefit determination, the Deferred Compensation Administrator may appoint either one of its agents or a member of the State Bar of California to serve as a referee. The referee shall hold such a hearing and shall transmit, in writing, to the Deferred Compensation Administrator his proposed findings of fact and recommended decision.

- (a) The proposed findings of fact and recommendations of the referee shall be served on the parties who shall have 10 days to submit written objections thereto which shall be incorporated in the record considered by the Deferred Compensation Administrator.
- (b) Upon receiving the proposed findings of fact and the recommendations of the referee, the Deferred Compensation Administrator may:
 - (1) Approve and adopt the proposed findings and the recommendations of the referee; or
 - (2) Require a transcript or summary of all the testimony, plus all other evidence received by the referee.
- (c) Upon the receipt thereof the Deferred Compensation Administrator shall:
 - (1) Take such action as in its opinion is indicated by such evidence; or

- (2) Refer the matter back with or without instructions to the referee for further proceedings; or
- (3) Set the matter for hearing before itself. At such hearing the Deferred Compensation Administrator shall hear and decide the matter as if it had not been referred to the referee.

10.3 Notice of Denial. In the event that any application for benefits is denied in whole or in part, the Deferred Compensation Administrator shall notify the applicant in writing of his or her right to an independent review of the denial. Such written notice shall set forth, in a manner calculated to be understood by the applicant, specific reasons for the denial, specific references to this Plan's provisions on which the denial is based, a description of any information or material necessary to perfect the application, an explanation of why such material is necessary, and an explanation of this Plan's review procedure.

An application shall be granted or written notice of a denial shall be given to the applicant within ninety (90) days after the Deferred Compensation Administrator receives a proper application, unless special circumstances require an extension of time for processing the application. In no event shall such an extension exceed a period of 90 days from the end of the initial 90-day period. If such an extension is required, written notice thereof shall be furnished to the applicant before the end of the initial 90-day period. Such notice shall indicate the special circumstances requiring an extension of time and the date by which the Deferred Compensation Administrator expects to render a decision. If an application is neither granted nor denied within the time period prescribed by this Section 10.3, such application shall be deemed denied for purposes of Section 10.4.

10.4 Request for Review. Any person whose application for benefits is denied in whole or in part (or such person's duly authorized representative) may appeal from the denial by submitting to the Deferred Compensation Administrator a request for an independent review of such application within six months after receiving written notice of the denial. The Deferred Compensation Administrator shall give the applicant or such representative an opportunity to review pertinent documents (except legally privileged materials) in preparing such request for review and to submit issues and comments in writing. The request for review shall be in writing and shall be addressed as follows:

County Treasurer
Deferred Compensation Administrator
County of San Diego Defined Benefit Pension Plan
1600 Pacific Highway, Room 152
San Diego, California 92101

The request for review shall set forth all of the grounds on which it is based, all facts in support of the request and any other matters which the applicant deems pertinent. The Deferred Compensation Administrator may require the applicant to submit such

additional facts, documents or other material as he or she may deem necessary or appropriate in making a review.

Any review of a denied application shall be conducted by a panel of three or more individuals who did not take part in the initial denial of such application. Such individuals shall be designated by the Deferred Compensation Administrator.

- 10.5 Decision on Review. The Deferred Compensation Administrator shall act upon each request for review within sixty (60) days after receipt thereof, unless special circumstances require an extension of time for processing, but in no event shall the decision on review be rendered more than 120 days after the Deferred Compensation Administrator receives a proper request for review. If such an extension is required, written notice thereof shall be furnished to the applicant before the end of the initial sixty (60) day period. The Deferred Compensation Administrator shall give prompt, written notice of the decision to the applicant. In the event that the denial of the application for benefits is affirmed in whole or in part, such notice shall set forth, in a manner calculated to be understood by the applicant, the specific reasons for such denial and specific references to this Plan's provisions on which the decision is based.
- 10.6 Exhaustion of Administrative Remedies; Limitations. No legal or equitable action for benefits under this Plan shall be brought unless and until the claimant
- (a) has submitted a written application for benefits in accordance with Section 10.1,
 - (b) has been notified that the application is denied as provided in Section 10.3,
 - (c) has filed a written request for an independent review of the application in accordance with Section 10.4, and
 - (d) has been notified in writing that the denial of the application was affirmed as provided in Section 10.5;

provided, however, that such an action may be brought if the claim has not been acted upon within the time period prescribed by Section 10.5.

ARTICLE 11. FIDUCIARIES AND ADMINISTRATION

- 11.1 Plan Sponsor and Administrator. The County is the plan sponsor of the Plan. The County Treasurer of the County of San Diego is the Deferred Compensation Administrator of the Plan who operates and administers the Plan on a day-to-day basis.
- 11.2 Administrative Responsibilities. The Deferred Compensation Administrator is the named Fiduciary who has the authority to control and manage the operation and administration of the Plan. The Deferred Compensation Administrator shall make such rules, regulations and computations and shall take such other actions to administer the Plan as the Deferred Compensation Administrator may deem appropriate. Such rules, interpretations, computations and actions shall be final, conclusive and binding on all persons. The Deferred Compensation Administrator shall have sole discretionary authority to interpret the terms of the Plan and to determine eligibility for benefits pursuant to the objective criteria set forth in the Plan. In administering the Plan, the Deferred Compensation Administrator shall at all times discharge its duties with respect to the Plan in accordance with the applicable fiduciary standards under California state law.
- 11.3 The powers and duties of the Deferred Compensation Administrator shall include, but not be limited to, the following:
- (a) Construe and interpret this Plan in accordance with uniform rules and regulations;
 - (b) Decide the eligibility of any person to be covered under this Plan, determine the right of any person to a Pension and determine the amount, manner and time of any Pension, in accordance with the provisions of this Plan;
 - (c) Determine the qualified status of domestic relations orders and to administer distributions under QDROs (in accordance with section 414(p) of the Code);
 - (d) Prescribe procedures to be followed by Participants and Beneficiaries in filing applications for Pensions;
 - (e) Prescribe procedures for redress of denied claims to be afforded to Participants and Beneficiaries under this Plan, pursuant to Article 10;
 - (f) Maintain, or cause to be maintained, records showing this Plan's fiscal operations and Employees' employment, service, benefits and vesting;
 - (g) Issue directions to the Trustee in connection with all benefits that are to be paid in accordance with the provisions of this Plan;
 - (h) Require from the County, Participating Employers and Eligible Employees such information as shall be necessary for the proper administration of this Plan;
 - (i) Furnish to the County appropriate periodic reports covering this Plan's administration;

- (j) Secure one or more fidelity bonds;
 - (k) Appoint or remove advisors to this Plan, including attorneys, accountants or consultants, to render advice or to perform services with regard to its responsibilities under this Plan, as it shall determine to be necessary or desirable;
 - (l) File necessary reports with the Internal Revenue Service; and
 - (m) Designate by written instrument (signed by both parties) one or more persons to carry out, where appropriate, fiduciary responsibilities under this Plan.
- 11.3 Management of Plan Assets. The Deferred Compensation Administrator is the named fiduciary with respect to control over and management of the Plan's assets only to the extent that (i) after the initial appointment of Trustee by the Board of Supervisors, it may appoint one or more Trustees to hold all assets of the Plan and may enter into an agreement with each Trustee it appoints, and (ii) it shall designate one or more investment options for the investment of Plan assets. After the initial appointment of Trustee, the Deferred Compensation Administrator shall have the sole responsibility and power to appoint and remove any Trustee managing assets of the Plan.
- 11.4 Delegation of Fiduciary Responsibilities. The Deferred Compensation Administrator may engage such attorneys, actuaries, accountants, consultants, investment advisors or other persons to render advice or to perform services with regard to its responsibilities under the Plan as it shall determine to be necessary or appropriate. The Deferred Compensation Administrator may designate by written instrument signed by both parties one or more persons to carry out, where appropriate, fiduciary responsibilities of the Deferred Compensation Administrator. The duties and responsibilities under the Plan of the Deferred Compensation Administrator not delegated to other fiduciaries pursuant to the foregoing sentence shall be carried out by the agents of the Deferred Compensation Administrator, acting on behalf of and in the name of the Deferred Compensation Administrator in their capacities as agents and not as individual fiduciaries. Without limiting the generality of the foregoing, the Deferred Compensation Administrator shall designate the persons or groups of persons who shall carry out the responsibilities of the Deferred Compensation Administrator under the Plan as the agents of the Deferred Compensation Administrator, and the Deferred Compensation Administrator as principal shall be responsible for the acts of such agents.
- 11.5 Service in Multiple Fiduciary Capacities. Nothing herein shall prohibit any person or group of persons from serving in more than one fiduciary capacity with respect to the Plan.
- 11.6 Expenses of the Plan. All expenses of administering the Plan shall be paid out of the Trust Fund, except for such expenses as are paid by the Participating Employers. The Deferred Compensation Administrator shall have complete and unfettered discretion to determine whether an expense of the Plan shall be paid out of the Trust Fund or by the Participating Employers, and the Deferred Compensation Administrator's discretion and

authority to direct the payment of expenses out of the Trust Fund shall not be limited in any way by any prior decision or practice regarding payment of the expenses of the Plan.

- 11.7 Pension Payments. All Pensions payable pursuant to the Plan shall be paid by the Trustee out of the Trust Fund pursuant to the directions of the Deferred Compensation Administrator and the terms of the agreement with the Trustee.
- 11.8 Indemnification. To the fullest extent permitted by law, the County agrees to indemnify, defend and hold harmless the Deferred Compensation Administrator, the Plan individuals described in Article 10, and the employees of the County who administer the Plan, individually and collectively, against any liability whatsoever for any action taken or omitted by them in good faith in connection with this Plan and Trust or their duties hereunder and for any expenses or losses for which they may become liable as a result of any such actions or non-actions unless resultant from their own willful misconduct; and the County may purchase a bond and liability insurance to cover any of their potential liabilities with regard to this Plan and Trust.

ARTICLE 12. FUNDING AND INVESTMENTS

- 12.1 Participating Employer Contributions. No Participant contributions are required or permitted under this Plan.

The County and the other Participating Employers expect, subject to their future financial conditions and needs, to make contributions to the Trust Fund adequate to finance the Pensions provided for in this Plan on a sound actuarial basis. All contributions of the Participating Employers under this Plan for the benefit of their respective Eligible Employees shall be mandatory and shall be in such amounts to maintain the actuarial requirements of this Plan or to satisfy any liabilities under the Plan as determined by the Deferred Compensation Administrator.

Accordingly, each of the Participating Employers shall make contributions to the Trust Fund in amounts adequate to cover the cost of the Pension benefits to be paid under the Plan to its Eligible Employees or former Eligible Employees in such amounts, at such times, and on such terms and conditions that the Deferred Compensation Administrator may establish in its sole discretion.

- 12.2 Administrative Expenses. The Trust Fund shall defray all reasonable expenses of administering this Plan, except to the extent that such expenses are defrayed by the Participating Employers in such amounts to be determined by the Deferred Compensation Administrator in its sole discretion.

- 12.3 The Trustee and Investment Managers. The exclusive authority and discretion to manage and control the Trust Fund shall be vested in the Trustee, except to the extent that the Trust Agreement provides that the Trustee is subject to the directions of the Deferred Compensation Administrator or an Investment Manager appointed by the Deferred Compensation Administrator. Accordingly, subject to the provisions of this Plan, the Deferred Compensation Administrator shall enter into one or more Trust Agreements in such form and containing such provisions as the Deferred Compensation Administrator may deem appropriate, including (without limitation) constraints on the investment of the Trust Fund and the power and authority of the Trustee to amend the Trust Agreement or to terminate the trust. By participating in the Plan, each Participating Employer agrees to be bound by the terms and conditions of the Trust Agreement. All contributions under this Plan shall be paid by the Participating Employers, as applicable, to the Trustee to be held, invested and distributed subject to the terms and conditions of this Plan and the Trust Agreement. The Deferred Compensation Administrator from time to time may appoint one or more Investment Managers with respect to all or any portion of the Trust Fund and may enter into an investment management agreement with any Investment Manager so appointed. Each Investment Manager so appointed shall have the exclusive authority and discretion to manage and control the assets of the Trust Fund assigned to him or her or it, except to the extent that the applicable investment management agreement provides that such Investment Manager is subject to the directions of the Deferred Compensation Administrator or a Trustee.

- 12.4 Trust Fund; Investment Losses; Interests in Trust Fund. All payments of Pensions provided for in this Plan shall be made solely from the assets of the Trust Fund, and none of the Fiduciaries shall be liable therefor in any manner. No Fiduciary guarantees the Trust Fund or any Participating Employer contributions in any manner against investment loss or depreciation in asset value. Except only as expressly provided from time to time under this Plan, and then only to the extent of his or her benefits payable under this Plan from the assets of the Trust Fund, no person shall have any right to, or interest in, any assets of the Trust Fund.
- 12.5 Return of Participating Employer Contributions.
- (a) Mathematical Errors or Mistake of Fact. If, as determined by the Deferred Compensation Administrator in its sole discretion, the amount of a contribution is incorrect, such as an amount based on a mathematical error or a mistake of fact, the amount in excess of the correct amount shall be returned to the Participating Employer within twelve (12) months after the payment of the contribution.
 - (b) Plan Termination. Subject to Article 14, if this Plan is terminated, any Plan assets remaining after satisfaction of all Plan liabilities shall be returned to the Participating Employers, as determined by the Deferred Compensation Administrator.

ARTICLE 13. GENERAL PROVISIONS

- 13.1 Information and Reports to Participants. Each Participant shall be advised periodically of the general provisions of the Plan, to the extent required by law. The Deferred Compensation Administrator shall also furnish to any Participant or Beneficiary, upon written request, such information regarding the Plan and such person's benefits hereunder as may be required by law, but may require payment of a reasonable charge covering the cost of providing such data, to the extent permitted by law.
- 13.2 Applicable Law. This Plan shall be construed and enforced in accordance with applicable California state laws and the Code and any other applicable federal law.
- 13.3 No Employment Rights Conferred. Nothing in the Plan is intended to give any person any right to remain in the employ of any Participating Employer or to affect any person's legal rights respecting employment by any Participating Employer.
- 13.4 Service on Plan; Limitations on Actions Against Plan. Valid service of any legal process on the Deferred Compensation Administrator shall constitute service of process on the Plan. Any legal proceedings against the Plan, shall be commenced within one year, or within any greater period allowed by applicable laws, after the cause of action arises, and if not commenced within the applicable period described above, shall be deemed abandoned and forever barred.
- 13.5 Plan Office; Records. The records of the Plan shall be maintained on a Plan Year basis. The principal office of the Plan, where all Plan records shall be kept, shall be located at the Deferred Compensation Administrator's principal office. Copies of all documents constituting a part of the Plan and any related documents shall also be made available at other locations, to the extent required by law. The Deferred Compensation Administrator shall allow any Participant or Beneficiary reasonable access to any documents under which the Plan is established or operated, if a request for such access is made in accordance with the Deferred Compensation Administrator's written procedure.
- 13.6 Form of Applications, Elections and Other Communications. All applications, authorizations, designations, elections, instructions or any other communications required or permitted of any person under the Plan shall be submitted to the Deferred Compensation Administrator in such form and manner and at such time as the Deferred Compensation Administrator may require and, if the Deferred Compensation Administrator deems it necessary or advisable, shall include the consent of such person's Spouse (if any).
- 13.7 Merger, Consolidation and Transfer of Assets or Liabilities. The Plan may be merged or consolidated with any other plan, and the assets and liabilities of the Plan may be transferred to any other plan at the discretion of the County.
- 13.8 Application of Forfeitures. All forfeitures arising under the Plan shall not increase the benefits which any Participant would otherwise receive thereunder and shall be applied as soon as reasonably practicable within the constraints of the actuarial assumptions and

funding method used to determine Plan costs to reduce Participating Employer contributions to the Plan.

- 13.9 Payments of Benefits to Infants or Incompetents. If the Deferred Compensation Administrator determines that any individual entitled to payments under the Plan is an infant or is incompetent by reason of a physical or mental disability, then it may cause all payments thereafter becoming due to such individual to be made to any other person for such individual's benefit, without responsibility for the application of amounts so paid. Payments made pursuant to this Section 13.9 shall completely discharge the Participating Employers and the Trustee.

ARTICLE 14. AMENDMENT OR TERMINATION OF PLAN

- 14.1 Plan May Be Amended or Terminated. It is the intention of the County that the Plan will continue indefinitely, but the County may, at any time and for any reason, amend the Plan retroactively or prospectively; notwithstanding, the Deferred Compensation Administrator shall have the authority to amend the Plan as necessary or desirable to maintain the qualified status of the Plan under sections 401(a) and 501(a) of the Code or to facilitate the administration or operation of the Plan to the extent such amendment would not materially increase the cost of the Plan or significantly alter the benefits payable under the Plan. The County may terminate the Plan or permanently discontinue Participating Employer contributions hereunder without terminating the Trust Agreement or the other provisions of the Plan. Any other provision hereof notwithstanding, the County shall have no obligation to continue to make contributions to the Plan after the termination thereof.
- 14.2 Amendments Cannot Reduce Accrued Pensions. No amendment of the Plan shall reduce the Accrued Pension of any Participant prior to the date when the amendment is adopted, except to the extent that a reduction in Accrued Pensions may be permitted by the Code or California law; and no amendment of the Plan nor any other action taken by the County shall divert any part of the assets of the Trust Fund to purposes other than the exclusive purpose of providing benefits to Participants or beneficiaries who have an interest in the Plan and of defraying the reasonable expenses of administering the Plan and the Trust Fund, except as provided in Sections 12.5 and 14.3.
- 14.3 Procedure Upon Plan Termination. It is the intent of this Article 14 that any termination of the Plan be accomplished in accordance with applicable laws. Upon termination of the Plan, no part of the Trust Fund shall revert to the County or another Participating Employer, except as provided in Section 12.5(b). No person shall have recourse toward satisfaction of a benefit under the Plan from other than the Plan assets.
- 14.4 Fiduciary Powers Continue Until Distribution Complete. Until the final distribution of all Plan assets allocated on account of any termination of the Plan, the Trust Fund shall continue, and the Deferred Compensation Administrator, the County and the Trustee shall continue to have and may exercise all of the powers conferred upon them by the Plan and the Trust Agreement.

ARTICLE 15. EXECUTION.

To record the adoption of this Plan as set forth herein, the County has caused its duly authorized representative to execute the same to be effective the 31st day of December of 2002.

COUNTY OF SAN DIEGO

By: _____

Name: _____

Its: _____

EXHIBIT A

ACTUARIAL FACTORS SOLELY FOR PURPOSES OF SECTION 415(B) OF THE INTERNAL REVENUE CODE

Except as otherwise provided under the terms of the Plan and solely for purposes of calculating the applicable limits under section 415(b) of the Code to the benefits of a Participant, a benefit payable in a form other than the normal form shall be adjusted to the actuarial equivalent of the normal form payable as of the determination date, computed using a 5 percent interest rate assumption and the applicable mortality table prescribed under section 415 of the Internal Revenue Code.